



# City of NORFOLK

C: Dir., Department of City Planning

To the Honorable Council  
City of Norfolk, Virginia

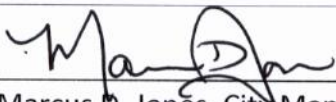
January 12, 2016

From: George M. Homewood, AICP, CFM, Planning Director

Subject: **Special Exception for an Entertainment Establishment with alcoholic beverages  
Restaurant – 2406 Colonial Avenue, Unit A – Toast**

Reviewed:   
Ronald H. Williams, Jr., Deputy City Manager

Ward/Superward: 2/7

Approved:   
Marcus D. Jones, City Manager

Item Number:

**R-6**

- I. **Staff Recommendation:** Approval.
- II. **Commission Action:** By a vote of **6 to 0**, the Planning Commission recommends **Approval**.
- III. **Request:** Special Exception to operate an Entertainment Establishment with alcoholic beverages.
- IV. **Applicant:** Toast
- V. **Description:**
  - Granting this request will allow Toast, an existing restaurant, to make several modifications:
    - Increase the hours for alcohol and entertainment
    - Increase total capacity
    - Decrease indoor seating
    - Increase outdoor seating
    - Add two industrial containers to the site; converted to accommodate container-top dining
    - Add outdoor entertainment

Staff point of contact: Matthew Simons at 664-4750, [matthew.simons@norfolk.gov](mailto:matthew.simons@norfolk.gov)

**Attachments:**

- Staff Report to CPC dated December 10, 2015 with attachments
- Letter of support
- Proponents and Opponents
- Ordinance

**Planning Commission Public Hearing: December 10, 2015**

Executive Secretary: George M. Homewood, AICP, CFM

Planner: Matthew Simons, AICP, CZA, CFM

Staff Report	Item No. <b>C - 2</b>	
Address	2406 Colonial Avenue, Unit A	
Applicant	Toast	
Request	Amend Special Exception	Entertainment Establishment with alcoholic beverages
Property Owner	Michael, LLC (Shahpor "Ben" Mahgerefteh)	
Site Characteristics	Site/Building Area	10,895 sq. ft./2,284 sq. ft.
	Zoning	Conditional C-2 (Corridor Commercial)
	Future Land Use Map	Commercial
	Character District	Traditional
	Neighborhood	Park Place
Surrounding Area	North	I-2 (Light Industrial): vacant home and office
	East	I-2: auto repair
	South	C-2: mixed use (residential above engineer's office) and vacant restaurant
	West	I-2: Buckstaff Public Safety store and Goodwill Baptist Church





### A. Summary of Request

- Granting this request will allow Toast, an existing restaurant, to make several modifications:
  - Increase the hours for alcohol and entertainment
  - Increase total capacity
  - Decrease indoor seating
  - Increase outdoor seating
  - Add two industrial containers to the site; converted to accommodate container-top dining
  - Add outdoor entertainment
- This request was originally continued from the August, September and November public hearings to the December public hearing to revise details of the special exception request and to allow for more communication with the civic league.

### B. Plan Consistency

- The proposed special exception is consistent with *plaNorfolk2030*, which designates this site as commercial.
- The healthy and vibrant neighborhoods chapter of *plaNorfolk2030* calls for Colonial Avenue businesses to provide an active streetscape with reduced setbacks and screened parking.
- To be fully consistent with *plaNorfolk2030*, special exception should be conditioned to require continued maintenance of the pedestrian-scale elements along Colonial Avenue and to require additional screening of the parking areas fronting West 24<sup>th</sup> Street.
  - A condition is being added to require the installation of a sidewalk along West 24<sup>th</sup> Street.

### C. Zoning Analysis

#### i. General

- The use is permitted in the C-2 district by special exception.

	Existing	Proposed
Hours of Operation	9:00 a.m. until 2:00 a.m, seven days a week	Same
Hours for the Sale of Alcohol and for Indoor Entertainment	10:00 a.m. until 2:00 a.m, seven days a week	9:00 a.m. until 2:00 a.m, seven days a week
Hours for Outdoor Entertainment	N/A	12:00 noon until 10:00 p.m, Sunday through Thursday 12:00 noon until 11:00 p.m, Friday and Saturday
Entertainment Options	5 member live band, karaoke, comedian, poetry reading	Same

Seating	<ul style="list-style-type: none"> <li>• 49 seats indoor</li> <li>• 48 seats outdoor</li> <li>• 119 total capacity</li> </ul>	<ul style="list-style-type: none"> <li>• 40 seats inside building</li> <li>• 20 seats outside (front patio)</li> <li>• 20 seats outside (rear patio)</li> <li>• 20 rooftop seats above containers</li> <li>• 150 total capacity</li> </ul>
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- Special exception history:

City Council Approval	Applicant	Changes
August 2013	Ben Mahgerefteh	<ul style="list-style-type: none"> <li>• Rezoning from I-2 to Conditional C-2</li> <li>• Special Exception to permit Mixed Uses (residential above commercial)</li> </ul>
June 2014	John Porter	Original Application (Entertainment Establishment)
Pending	Toast by John Porter	<ul style="list-style-type: none"> <li>• Increase in capacity</li> <li>• Addition of containers with rooftop dining</li> <li>• Addition of outdoor entertainment</li> <li>• Alcohol and entertainment permitted one hour earlier</li> </ul>

## ii. Parking

- Off-street parking is shared amongst two uses in one structure; one residential unit that was previously approved in 2013 and the entertainment establishment with an expansion as proposed.
- The current parking regulations require eleven parking spaces, given the square footage of the establishment, and one space for the residential unit above.
  - The proposed site plan accommodates twelve parking spaces.
  - The applicant has secured an off-lot parking agreement with the adjacent site to the east.
    - The site would provide five additional parking spaces for the restaurant at times when both businesses are open, and 20 additional parking spaces at times when the neighboring business is closed.
- The *Zoning Ordinance* exempts outdoor dining from the off-street parking requirement due to the variable nature of the weather.
  - Therefore, the outdoor dining is required to remain open to the elements without accommodations for heating or cooling the space.

## iii. Flood Zone

The property is located in the X Flood Zone, which is a low-risk flood zone.



#### **D. Transportation Impacts**

Institute of Transportation Engineers figures estimate that this restaurant will generate 43 fewer vehicle trips per day by decreasing total indoor seating at this location by nine seats below currently approved levels.

#### **E. Impact on the Environment**

- Site improvements shall include a new sidewalk along the West 24<sup>th</sup> Street frontage, tying-in with the existing sidewalks along West 24<sup>th</sup> Street and Colonial Avenue.
- The existing dumpster enclosure will be screened and landscaping installed along the base near the proposed sidewalk's edge.

#### **F. Impact on Surrounding Area/Site**

- Over the past year there has been one call for police service with no arrest made.
  - The call for service concerned a larceny report.
- The applicant has proposed outdoor entertainment to be permitted until 10:00 p.m. during the week and 11:00 p.m. on weekends, which is consistent with outdoor entertainment hours approved for similar applications.
  - There is a residential unit on the premises, above the restaurant, (which is currently home to the restaurant operator), and a nonconforming residential home to the north, located in the I-2 district, which has been vacant for several months.
- The applicant has also proposed outdoor entertainment on the roof of one of the containers.
  - The only rooftop entertainment option that has been approved at a similar establishment was for an unamplified band with hours no later than 10:00 p.m., seven days a week.
  - The applicant has proposed to move all amplification of the container-top entertainment to the ground level.
- Given the conditions which limits the hours of outdoor entertainment and focuses all amplification to the ground level, and given the two-block separation of the establishment from the surrounding residential, the proposal should not have an adverse impact on the neighborhood.
- However, consistent with similar applications for outdoor entertainment in the past, a condition should be added to limit the approval to 18 months, requiring the applicant to reapply after a year of operation in order to address any public concerns that may arise as a result of the outdoor entertainment.

#### **G. Payment of Taxes**

The owner of the property is current on all real estate taxes.

#### **H. Civic League**

- Notice was sent to the Park Place Civic League on July 15.
- The applicant presented the proposal to the Park Place Civic League on November 2.
- A letter of support was received from the Park Place Civic League on December 4.

**I. Communication Outreach/Notification**

- Legal notice was posted on the property on July 14.
- Letters were mailed to all property owners within 300 feet of the property on August 14.
- Legal notification was placed in *The Virginian-Pilot* on August 13 and August 20.
  - This item was continued from the August, September and November public hearings to the December public hearing.

**J. Recommendation**

Staff recommends **approval** of the special exception request subject to all of the following conditions being adopted, which should address the potential impacts on the surrounding area, including a provision to require the applicant to reapply after a year of operation, in order to address any public concerns that may arise as a result of the outdoor entertainment.

**Entertainment Establishment Conditions**

- (a) The hours of operation for the establishment shall be from 9:00 a.m. until 2:00 a.m. the following morning, seven days a week. No use of the establishment outside of the hours of operation listed herein shall be permitted.
- (b) The hours for the sale of alcoholic beverages, and for indoor entertainment shall be from 9:00 a.m. until 2:00 a.m. the following morning, seven days a week.
- (c) The hours for outdoor entertainment shall be from 12:00 p.m. until 10:00 p.m., Sunday through Thursday, and from 12:00 p.m. until 11:00 p.m., Friday and Saturday.
- (d) Any amplification of sound that is provided outdoors shall be located no higher than six feet above the grade of the ground floor level and shall only be permitted from 12:00 p.m. until 10:00 p.m., Sunday through Thursday, and from 12:00 p.m. until 11:00 p.m., Friday and Saturday.
- (e) The seating for the establishment shall not be less than 40 seats indoors, shall not be more than 60 seats outdoors, which includes 20 rooftop seats over the shipping containers, and the total occupant capacity for the entire establishment, including employees, shall not exceed 150 people.
- (f) No portion of the outdoor dining area, including the rooftop dining area located on top of the shipping containers, shall be enclosed, and any covering must leave the dining space with open ventilation on at least three sides. No portion of the outdoor dining area, including the dining area located on top of the shipping containers, shall be heated or cooled.
- (g) There shall be no signage or electronic display, including no television or electronic monitor, located on the second floor or second story of the building such that it is visible



from any portion of a public right-of-way.

- (h) The site shall be improved in accordance with the conceptual site plan attached hereto and marked as "Exhibit C," to include all landscape improvements and the sidewalk installation where shown on the attached site plan.
- (i) No increase in occupancy shall occur until all improvements referenced in condition (h) are implemented, excluding the requirement to install the proposed sidewalk along West 24<sup>th</sup> Street, which shall be completed within twelve months of the adoption date of this ordinance.
- (j) This special exception shall terminate in the event of a change in ownership of the establishment and may be revoked in the event of a change in the operation or management of the establishment as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the establishment shall be effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier. Notwithstanding the above, no violation of this condition shall be deemed to have occurred if the only change in management is a result of one or more of the members of the management team identified in the Description of Operations ceasing to work at the establishment.
- (k) Entertainment shall be limited to live bands having no more than 5 members, karaoke, comedians and poetry reading. No other form of entertainment is permitted.
- (l) There shall be no dancing and no dance floor provided.
- (m) The layout of the establishment shall adhere to the specifications of the floor plans attached hereto and marked as "Exhibit B."
- (n) No door to the establishment which opens onto or faces a public right-of-way shall be propped open during any time that entertainment is being provided.
- (o) The establishment shall maintain a current, active business license at all times while in operation.
- (p) The establishment shall remain current on all food and beverages taxes and business personal property taxes which may become due while it is in operation.
- (q) No public telephone(s) shall be permitted on the exterior of the property. Any public phone(s) on the interior of the building shall be located in an area within full view of the establishment's staff, and shall not be permitted within any restroom.

- (r) During all hours of operation, the establishment operator shall be responsible for maintaining those portions of public rights-of-way improved by sidewalk and portions of any parking lot adjacent to the premises regulated by the Special Exception so as to keep such areas free of litter, refuse, solid waste, and any bodily discharge.
- (s) The establishment shall maintain a designated driver program which shall provide, at minimum, that designated drivers may be served non-alcoholic beverages at no charge. The establishment shall describe the program in writing and its availability shall be made known to patrons via either a printed card placed on each table and on the bar or a description printed on the menu.
- (t) A menu shall be provided containing an assortment of foods which shall be made available at all times the establishment is open. A food menu and full dining service shall be available at the bar.
- (u) The business authorized by this special exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this special exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new special exception must be obtained prior to implementing such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.
- (v) The violation of any requirement, limitation, or restriction imposed by the Virginia ABC Commission shall be deemed a violation of this special exception. This special exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.
- (w) Neither the establishment nor any portion of it shall be leased, let, or used by any third party to stage an event for profit. No outside promoter shall be permitted to use, operate, rent, or host any event on the premises.
- (x) An ABC manager, employed and compensated by the applicant, shall be present at all events held on the premises. This manager shall supervise the event at all times. The ABC manager shall be present on the premises at least one hour prior to the beginning of the event and shall remain on the premises until the event is concluded and the establishment is secured and locked. If alcohol is not served or consumed, a responsible supervisor, employed and compensated by the applicant, shall perform this function.
- (y) In addition to the ABC manager or supervisor the applicant shall provide such additional paid staff as may be necessary to coordinate, supervise, and manage any event held on



the premises.

- (z) The establishment manager shall notify the Commissioner of the Revenue no less than 72 hours prior to the commencement of any event at which a cover charge is to be collected.
- (aa) A binder or folder containing documentation relating to the operation of the establishment shall be kept on the premises at all times and shall be produced upon request made by any person. For purposes of this section, the documentation relating to the operation of the establishment shall include copies of the following:
  - (1) This special exception;
  - (2) Any ABC license(s);
  - (3) Any occupancy permit(s);
  - (4) Certifications of all persons who work on the premises as a security guard;
  - (5) All fire code certifications, including alarm and sprinkler inspection records;
  - (6) Any health department permit(s);
  - (7) The emergency action plan required under the Fire Prevention Code;
  - (8) The names, addresses, and phone numbers of all persons who manage or supervise the establishment at any time;
  - (9) The establishment's designated driver program; and
  - (10) The establishment's Security Plan.
- (bb) The business shall provide in-house security or retain the services of a licensed security firm to provide security services at a rate of one security guard per 50 guest occupants on the property whenever occupancy shall exceed 113 people or when otherwise required by at least 36 hours prior written notice of the Fire Marshall, Chief of Police, or any designee of either. After 8:00 p. m. each Friday and Saturday as well as during special events, a security supervisor certified either in the Responsible Hospitality Training course offered by the City of Norfolk or in accordance with the requirements of the Virginia Department of Criminal Justice Services shall be present on the property.

- (cc) The written security plan submitted to the City as part of the application for this Special Exception and on file with the Department of Planning shall remain in full force and effect at all times while the establishment is in operation.

**Attachments:**

Location Map  
Zoning Map  
1000' radii map of similar ABC establishments  
1000' radii map of surrounding residential  
Application  
Notice to the Park Place Civic League  
Letter of support – Park Place Civic League



## **Proponents and Opponents**

### **Proponents**

John Porter – Applicant  
439 W. 30<sup>th</sup> Street  
Norfolk, VA 23508

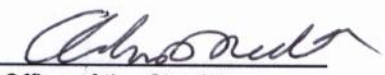
Robyn Thomas – Representative  
913 W. 21<sup>st</sup> Street  
Norfolk, VA 23517

### **Opponents**

None

Form and Correctness Approved: 

Contents Approved: 

By   
Office of the City Attorney

By   
DEPT.

NORFOLK, VIRGINIA

## ORDINANCE No.

AN ORDINANCE GRANTING A SPECIAL EXCEPTION AUTHORIZING THE OPERATION OF AN ENTERTAINMENT ESTABLISHMENT WITH ALCOHOLIC BEVERAGES KNOWN AS "TOAST" ON PROPERTY LOCATED AT 2406 COLONIAL AVENUE, UNIT A.

- - -

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That a Special Exception is hereby granted authorizing the operation of an entertainment establishment with alcoholic beverages named "Toast" on property located at 2406 Colonial Avenue, Unit A. The property which is the subject of this Special Exception is more fully described as follows:

Property located on the northeast corner of Colonial Avenue and West 24<sup>th</sup> Street fronting 105 feet, more or less, along the eastern line of Colonial Avenue and 100 feet, more or less, along the northern line of West 24<sup>th</sup> Street; premises numbered 2406 Colonial Avenue, Unit A.

Section 2:- That the Special Exception granted hereby shall be subject to the following conditions:

- (a) The hours of operation for the establishment, for the sale of alcoholic beverages, and for indoor entertainment shall be limited to 9:00 a.m. until 2:00 a.m. the following morning, seven days per week. No use of the establishment outside of the hours of operation listed herein shall be permitted.
- (b) The hours of operation for outdoor entertainment shall be limited to 12:00 noon until 10:00 p.m., Sunday through Thursday, and 12:00 noon until 11:00 p.m. on Friday and Saturday.
- (c) Any sound amplification device providing sound outdoors shall be located no higher than six feet above the ground elevation of the property.



- (d) The seating for the establishment shall not be less than 40 seats indoors, shall not be more than 60 seats outdoors, including no more than 20 rooftop seats over shipping containers, and the total occupant capacity for the entire establishment, including employees, shall not exceed 150 people, subject to the provisions and limitations set forth in condition (h), below.
- (e) No portion of the outdoor dining area, including the rooftop dining area located inside or on top of the shipping containers, shall be enclosed, and any covering must leave the dining space with open ventilation on at least three sides. No portion of the outdoor dining area, including the dining area located inside or on top of the shipping containers, shall be heated or cooled.
- (f) There shall be no signage or electronic display, including no television or electronic monitor, located on the second floor or second story of the building such that it is visible from any portion of a public right-of-way.
- (g) The site shall be improved and landscaping shall be installed in accordance with the conceptual site plan, as prepared by Robyn Thomas Architecture, revision dated July 10, 2015, attached hereto and marked as "Exhibit C," including the sidewalk installation where shown on the plan.
- (h) No increase in total occupancy, including employees, above 119 people is authorized until all improvements referenced in condition (g) are implemented, with the exception of the requirement to install the proposed sidewalk along West 24<sup>th</sup> Street, which work shall be completed within twelve months of the date of adoption of this special exception ordinance.
- (i) This special exception shall terminate in the event of a change in ownership of the establishment and may be revoked in the event of a change in the operation or management of the establishment as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no

termination in the event of a change in ownership of the establishment shall be effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier. Notwithstanding the above, no violation of this condition shall be deemed to have occurred if the only change in management is a result of one or more of the members of the management team identified in the Description of Operations ceasing to work at the establishment.

- (j) Entertainment shall be limited to live bands having no more than five (5) members, karaoke, comedians and poetry reading. No other form of entertainment is permitted.
- (k) There shall be no dancing and no dance floor provided.
- (l) The layout of the establishment shall adhere to the specifications of the floor plans attached hereto and marked as "Exhibit B."
- (m) No door to the establishment which opens onto or faces a public right-of-way shall be propped open during any time that entertainment is being provided.
- (n) The establishment shall maintain a current, active business license at all times while in operation.
- (o) The establishment shall remain current on all food and beverages taxes and business personal property taxes which may become due while it is in operation.
- (p) No public telephone(s) shall be permitted on the exterior of the property. Any public phone(s) on the interior of the building shall be located in an area within full view of the establishment's staff, and shall not be permitted within any restroom.
- (q) Dumpsters shall be gated and not visible from any public right-of-way, and will be screened with masonry walls that complement the existing building.
- (r) During all hours of operation, the establishment operator shall be responsible for maintaining those



portions of public rights-of-way improved by sidewalk and portions of any parking lot adjacent to the premises regulated by the Special Exception so as to keep such areas free of litter, refuse, solid waste, and any bodily discharge.

- (s) The establishment shall maintain a designated driver program which shall provide, at minimum, that designated drivers may be served non-alcoholic beverages at no charge. The establishment shall describe the program in writing and its availability shall be made known to patrons via either a printed card placed on each table and on the bar or a description printed on the menu.
- (t) A menu shall be provided containing an assortment of foods which shall be made available at all times the establishment is open. A food menu and full dining service shall be available at the bar.
- (u) The business authorized by this special exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this special exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new special exception must be obtained prior to implementing such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.
- (v) The violation of any requirement, limitation, or restriction imposed by the Virginia ABC Commission shall be deemed a violation of this special exception. This special exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.
- (w) Neither the establishment nor any portion of it

shall be leased, let, or used by any third party to stage an event for profit. No outside promoter shall be permitted to use, operate, rent, or host any event on the premises.

- (x) An ABC manager, employed and compensated by the applicant, shall be present at all events held on the premises. This manager shall supervise the event at all times. The ABC manager shall be present on the premises at least one hour prior to the beginning of the event and shall remain on the premises until the event is concluded and the establishment is secured and locked. If alcohol is not served or consumed, a responsible supervisor, employed and compensated by the applicant, shall perform this function.
- (y) In addition to the ABC manager or supervisor the applicant shall provide such additional paid staff as may be necessary to coordinate, supervise, and manage any event held on the premises.
- (z) The establishment manager shall notify the Commissioner of the Revenue no less than 72 hours prior to the commencement of any event at which a cover charge is to be collected.
- (aa) A binder or folder containing documentation relating to the operation of the establishment shall be kept on the premises at all times and shall be produced upon request made by any person. For purposes of this section, the documentation relating to the operation of the establishment shall include copies of the following:
  - (1) This special exception;
  - (2) Any ABC license(s);
  - (3) Any occupancy permit(s);
  - (4) Certifications of all persons who work on the premises as a security guard;
  - (5) All fire code certifications, including alarm and sprinkler inspection records;



- (6) Any health department permit(s);
  - (7) The emergency action plan required under the Fire Prevention Code;
  - (8) The names, addresses, and phone numbers of all persons who manage or supervise the establishment at any time;
  - (9) The establishment's designated driver program; and
  - (10) The establishment's Security Plan.
- (bb) The business shall provide in-house security or retain the services of a licensed security firm to provide security services at a rate of one security guard per 50 guest occupants on the property whenever occupancy shall exceed 113 people or when otherwise required by at least 36 hours prior written notice of the Fire Marshall, Chief of Police, or any designee of either. After 8:00 p. m. each Friday and Saturday as well as during special events, a security supervisor certified either in the Responsible Hospitality Training course offered by the City of Norfolk or in accordance with the requirements of the Virginia Department of Criminal Justice Services shall be present on the property.
- (cc) The written security plan submitted to the City as part of the application for this Special Exception and on file with the Department of Planning shall remain in full force and effect at all times while the establishment is in operation.

Section 3:- That the City Council hereby determines that the Special Exception granted herein complies with each of the requirements of § 25-7 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), namely that:

- (a) The proposed use and development will be in harmony with the objectives and policies of the adopted general plan and with the general and specific purposes for which this ordinance was enacted and for which the regulations of the district in question were established;

- (b) The proposed use and development will not substantially diminish or impair the value of the property within the neighborhood in which it is located;
- (c) The proposed use and development will not have an adverse effect upon the character of the area or the public health, safety and general welfare. Conditions may be applied to the proposed use and development, as specified in section 25-8 below, to mitigate potential adverse impacts;
- (d) The proposed use and development will be constructed, arranged and operated so as not to interfere with the use and development of neighboring property in accordance with the applicable district regulations;
- (e) The proposed use and development will be served adequately by essential public facilities and services such as streets, public utilities, drainage structures, police and fire protection, refuse disposal, parks, libraries, and schools;
- (f) The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets;
- (g) The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic features of significant importance;
- (h) The proposed use and development will not cause substantial air, water, soil or noise pollution or other types of pollution which cannot be mitigated;
- (i) The proposed use and development will not cause a negative cumulative effect, when its effect is considered in conjunction with the cumulative effect of various special exception uses of all types on the immediate neighborhood and the effect of the proposed type of special exception use on the city as a whole;
- (j) The proposed use and development complies with all additional standards imposed on it by the



particular provisions of the ordinance authorizing such use; and

- (k) No application for a special exception shall be recommended or granted until any and all delinquent real estate taxes owed to the City of Norfolk on the subject property have been paid.

Section 4:- That the Special Exception granted hereby amends the previously granted special exception permitting an entertainment establishment on this property, adopted on June 10, 2014 (Ordinance No. 45,576). All provisions and conditions previously approved are entirely superseded by the terms of this Special Exception.

Section 5:- That this ordinance shall be in effect from the date of its adoption.

ATTACHMENTS:

Exhibit A (7 pages)

Exhibit B (3 pages)

Exhibit C (1 page)



**EXHIBIT "A"**  
**Description of Operations**  
**Entertainment Establishment**  
**(Please Print)**

Date 12 July 2015

Trade name of business Toast

Address of business 2406 Colonial Avenue

Name(s) of business owner(s)\* John Porter, David Hausmann

Name(s) of property owner(s)\* Ben Magherefteh (Michael, LLC)

Name(s) of business manager(s)/operator(s) John Porter, David Hausmann

Daytime telephone number (757) 450-4303

\*If business or property owner is a partnership, all partners must be listed.

\*If business or property owner is an LLC or Corporation, all principals must be listed.

**1. Proposed Hours of Operation:**

Facility  
Weekday From 9am To 2am

Friday From 9am To 2am

Saturday From 9am To 2am

Sunday From 9am To 2am

*Indoor*  
Alcoholic Beverage Sales and Entertainment  
Weekday From 9am To 2am

Friday From 9am To 2am

Saturday From 9am To 2am

Sunday From 9am To 2am

**2. Type of ABC license applied for (check all applicable boxes):**

☒ On-Premises ☐ Off-Premises (second application required)

**3. Type of alcoholic beverage applied for:** *to begin at noon, + to end at 10pm - Sunday through Thursday*

☒ Beer ☒ Wine ☒ Mixed Beverage

**DEPARTMENT OF CITY PLANNING**

810 Union Street, Room 508

Norfolk, Virginia 23510

Telephone (757) 664-4752 Fax (757) 441-1569

(Revised January, 2015)

*11pm - Friday & Saturday*



**Exhibit A – Page 2**  
**Entertainment Establishment**

4. Will video games, pool tables, game boards or other types of games be provided?  
☐ Yes (If more than 4, additional application required) ☒ No

4a. If yes, please describe type and number of each game to be provided:


5. Will patrons ever be charged to enter the establishment?  
☒ Yes ☐ No

5a. If yes, why:

cover charge for band/dj

5b. Which days of the week will there be a cover charge (circle all applicable days):

☒ Monday ☒ Tuesday ☒ Wednesday ☒ Thursday ☒ Friday  
☒ Saturday ☒ Sunday

6. Will the facility or a portion of the facility be available for private parties?  
☒ Yes ☐ No

6a. If yes, explain:

birthdays, showers, special occasions, etc.

7. Will a third party (promoter) be permitted to lease, let or use the establishment?  
☐ Yes ☒ No

7a. If yes, explain:


8. Will there ever be a minimum age limit?  
☐ Yes ☒ No

**Exhibit A – Page 3**  
**Entertainment Establishment**

9. Additional comments/description/operational characteristics or prior experience:


Note: If smoking is permitted, then floor plans must be submitted showing all necessary building requirements for such facility

  
**Signature of Applicant**



**Exhibit A – Floor Plan(s) Worksheet  
Entertainment Establishment**

LAYOUT 1

- Complete this worksheet based for each floor plan submitted with application.
- Floor plan(s) must be prepared by a registered design professional and include:
  - Tables/seats
  - Restroom facilities
  - Bar
  - Ingress and egress
  - Standing room
  - Disc Jockey/Band/Entertainment area)
  - Outdoor seating
  - Total maximum capacity (including employees)

**1. Total capacity**

**a. Indoor**

Number of seats (not including bar seats) 20

Number of bar seats 20

Standing room 16

*inside 16  
outside 14*

*Outdoor  
container dining*

*12 inside*

*20 rooftop*

**b. Outdoor**

Number of seats 72 (includes rooftop)

**c. Number of employees**

8

**Total Occupancy**

(Indoor/Outdoor seats, standing room and employees) = 150

**2. Entertainment**

List ANY type of entertainment proposed other than a 3 member live band, karaoke, comedian, or poetry reading.

none

**3. Will a dance floor be provided?**

☐ Yes      ☒ No

**3a. If yes,**

Square footage of establishment

Square footage of dance floor

- If a disc jockey is proposed, a dance floor must be provided.
- If the dance floor is more than 10% of the square footage of the establishment, a Dance Hall permit is required.

**Exhibit A – Floor Plan(s) Worksheet  
Entertainment Establishment**

LAYOUT 2

- Complete this worksheet based for each floor plan submitted with application.
- Floor plan(s) must be prepared by a registered design professional and include:
  - Tables/seats
  - Restroom facilities
  - Bar
  - Ingress and egress
  - Standing room
  - Disc Jockey/Band/Entertainment area)
  - Outdoor seating
  - Total maximum capacity (including employees)

**1. Total capacity**

**a. Indoor**

Number of seats (not including bar seats)   
Number of bar seats   
Standing room   
5 piece band

*Outdoor  
Container dining*  
*12 inside*  
*(inside) 12/13 (outside) 20 rooftop*

**b. Outdoor**

Number of seats

*(includes rooftop)*

**c. Number of employees**

**Total Occupancy**

(Indoor/Outdoor seats, standing room and employees) =

**2. Entertainment**

List ANY type of entertainment proposed other than a 3 member live band, karaoke, comedian, or poetry reading.

5 piece band

**3. Will a dance floor be provided?**

☐ Yes ☒ No

**3a. If yes,**

Square footage of establishment

Square footage of dance floor

- If a disc jockey is proposed, a dance floor must be provided.
- If the dance floor is more than 10% of the square footage of the establishment, a Dance Hall permit is required.

**DEPARTMENT OF CITY PLANNING**

810 Union Street, Room 508

Norfolk, Virginia 23510

Telephone (757) 664-4752 Fax (757) 441-1569

(Revised January, 2015)



**Exhibit A – Floor Plan(s) Worksheet  
Entertainment Establishment**

LAYOUT 3

- Complete this worksheet based for each floor plan submitted with application.
- Floor plan(s) must be prepared by a registered design professional and include:
  - Tables/seats
  - Restroom facilities
  - Bar
  - Ingress and egress
  - Standing room
  - Disc Jockey/Band/Entertainment area)
  - Outdoor seating
  - Total maximum capacity (including employees)

**1. Total capacity**

**a. Indoor**

Number of seats (not including bar seats)

Number of bar seats

Standing room

20

20

inside 16  
outside 9

**b. Outdoor**

Number of seats

5 piece band

72

5

8

**c. Number of employees**

(includes rooftop)

*outdoor  
container dining*

*12 inside*

*20 rooftop*

**Total Occupancy**

(Indoor/Outdoor seats, standing room and employees) = 150

**2. Entertainment**

List ANY type of entertainment proposed other than a 3 member live band, karaoke, comedian, or poetry reading.

5 piece band

**3. Will a dance floor be provided?**

☐ Yes      ☒ No

**3a. If yes,**

Square footage of establishment

Square footage of dance floor

- If a disc jockey is proposed, a dance floor must be provided.
- If the dance floor is more than 10% of the square footage of the establishment, a Dance Hall permit is required.

**Exhibit A – Floor Plan(s) Worksheet  
Entertainment Establishment**

LAYOUT 4

- Complete this worksheet based for each floor plan submitted with application.
- Floor plan(s) must be prepared by a registered design professional and include:
  - Tables/seats
  - Restroom facilities
  - Bar
  - Ingress and egress
  - Standing room
  - Disc Jockey/Band/Entertainment area)
  - Outdoor seating
  - Total maximum capacity (including employees)

**1. Total capacity**

**a. Indoor**

Number of seats (not including bar seats)

20

Number of bar seats

20

Standing room

inside 16  
outside 19

**b. Outdoor**

Number of seats

62

5 piece band

5

**c. Number of employees**

8

*Outdoor  
container dining*

*12 inside*

*10 rooftop*

*(includes rooftop)*

**Total Occupancy**

(Indoor/Outdoor seats, standing room and employees) = 150

**2. Entertainment**

List ANY type of entertainment proposed other than a 3 member live band, karaoke, comedian, or poetry reading.

5 piece band

**3. Will a dance floor be provided?**

☐ Yes ☒ No

**3a. If yes,**

Square footage of establishment

Square footage of dance floor

- If a disc jockey is proposed, a dance floor must be provided.
- If the dance floor is more than 10% of the square footage of the establishment, a Dance Hall permit is required.

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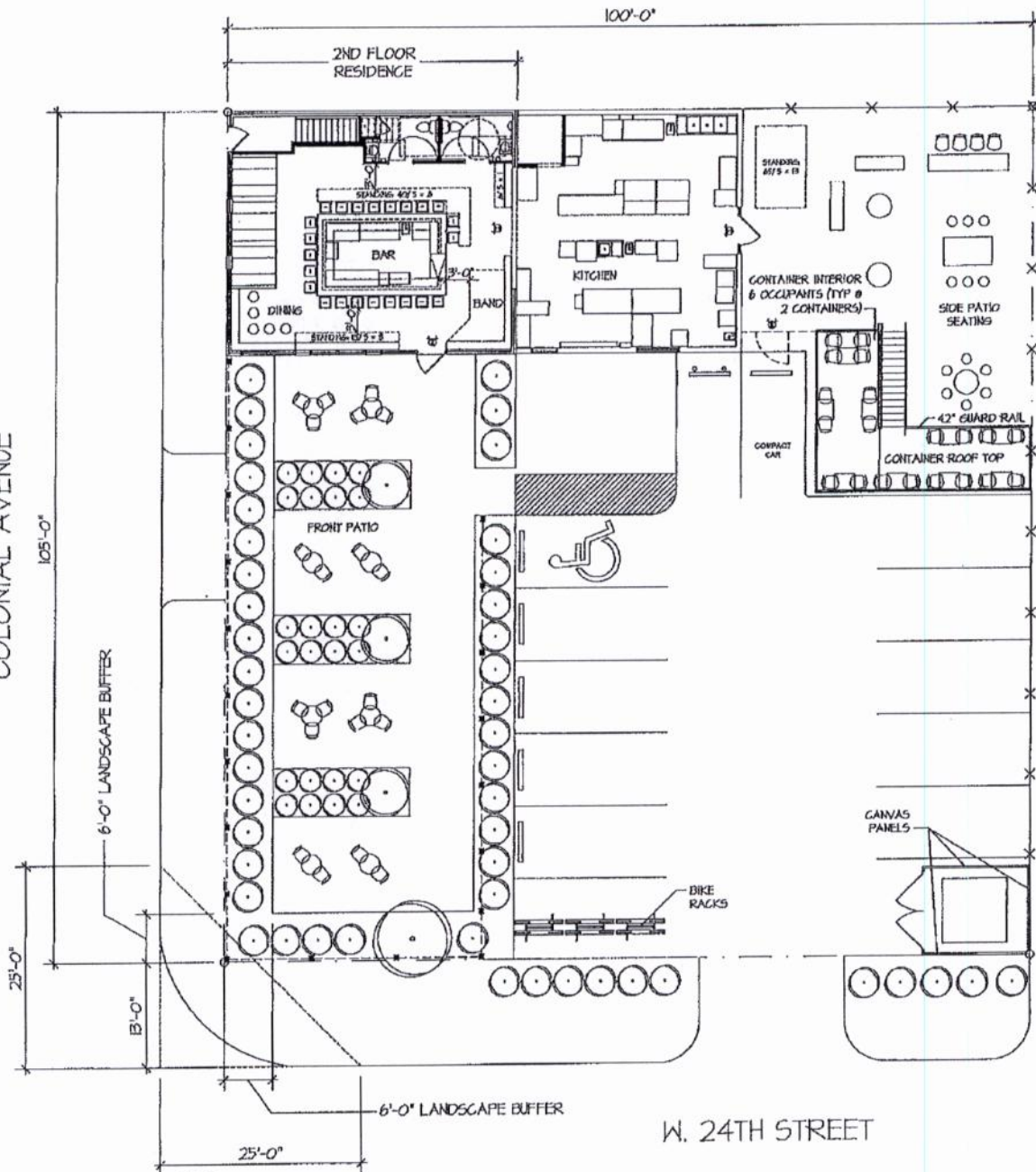
(Revised January, 2015)



$$I'' = 20' - 0''$$


OCCUPANCY CALCULATIONS	
INDOOR SEATING	40
INDOOR STANDING	16
FRONT PATIO SEATING	20
SIDE PATIO SEATING	20
CONTAINER TOP DINING	20
CONTAINERS INTERIORS	12
SIDE PATIO STANDING	14
STAFF	2
TOTAL	150

COLONIAL AVENUE

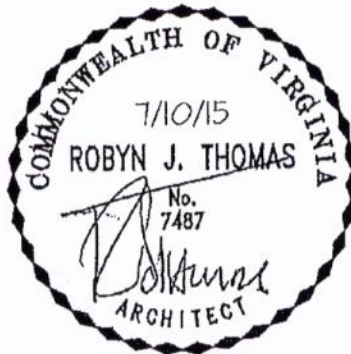


W. 24TH STREET

2

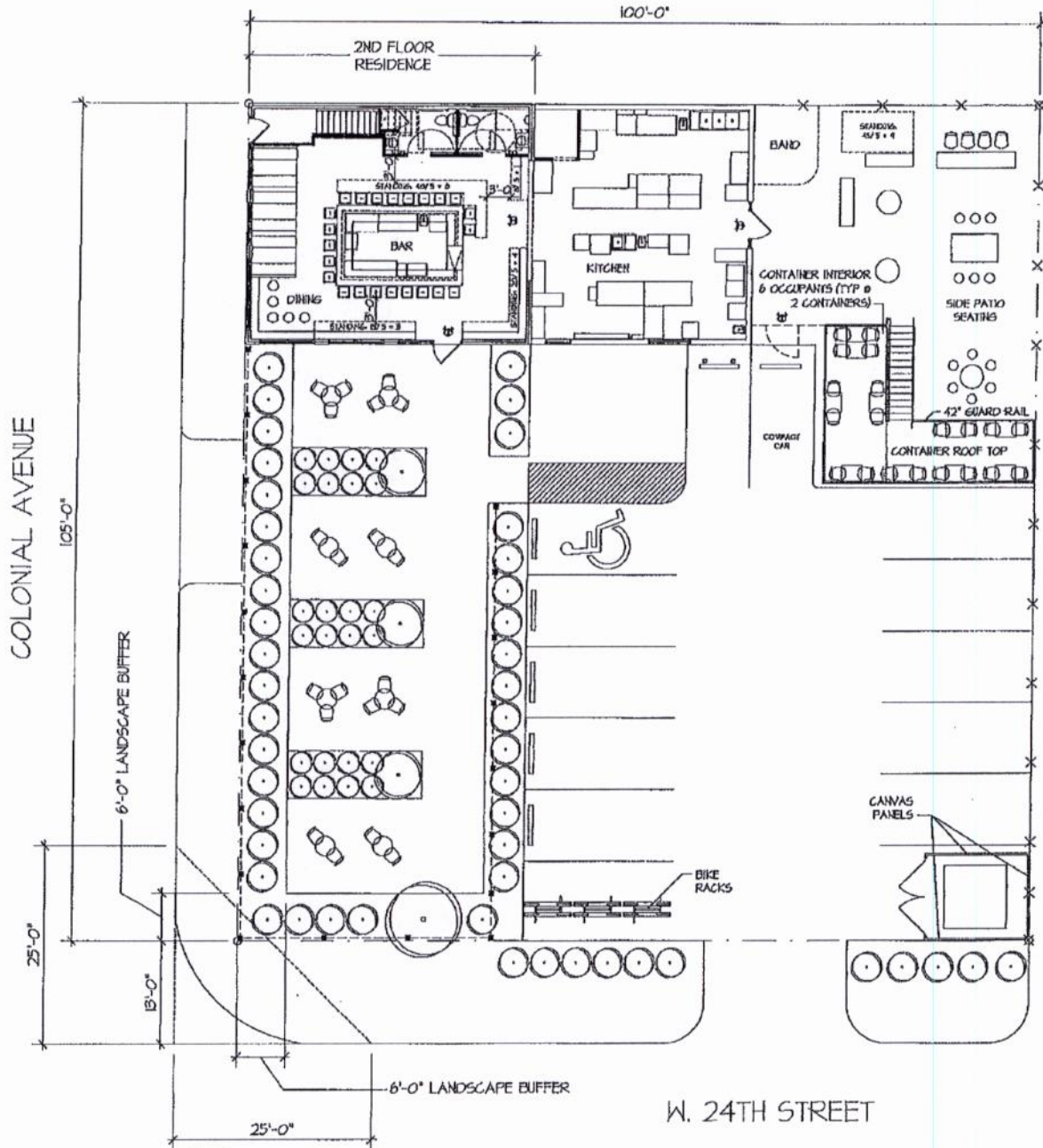
TOAST: 2406 COLONIAL AVENUE

1" = 20'-0"

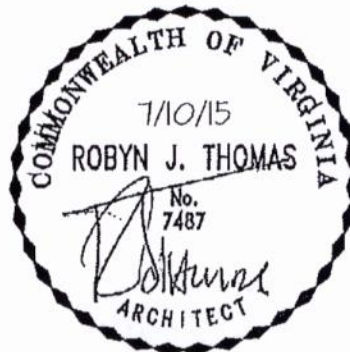


OCCUPANCY CALCULATIONS	
INDOOR SEATING	40
INDOOR STANDING	12
BAND	5
FRONT PATIO SEATING	20
SIDE PATIO SEATING	20
CONTAINER TOP DINING	20
CONTAINERS INTERIORS	12
SIDE PATIO STANDING	13
STAFF	8
<b>TOTAL</b>	<b>150</b>



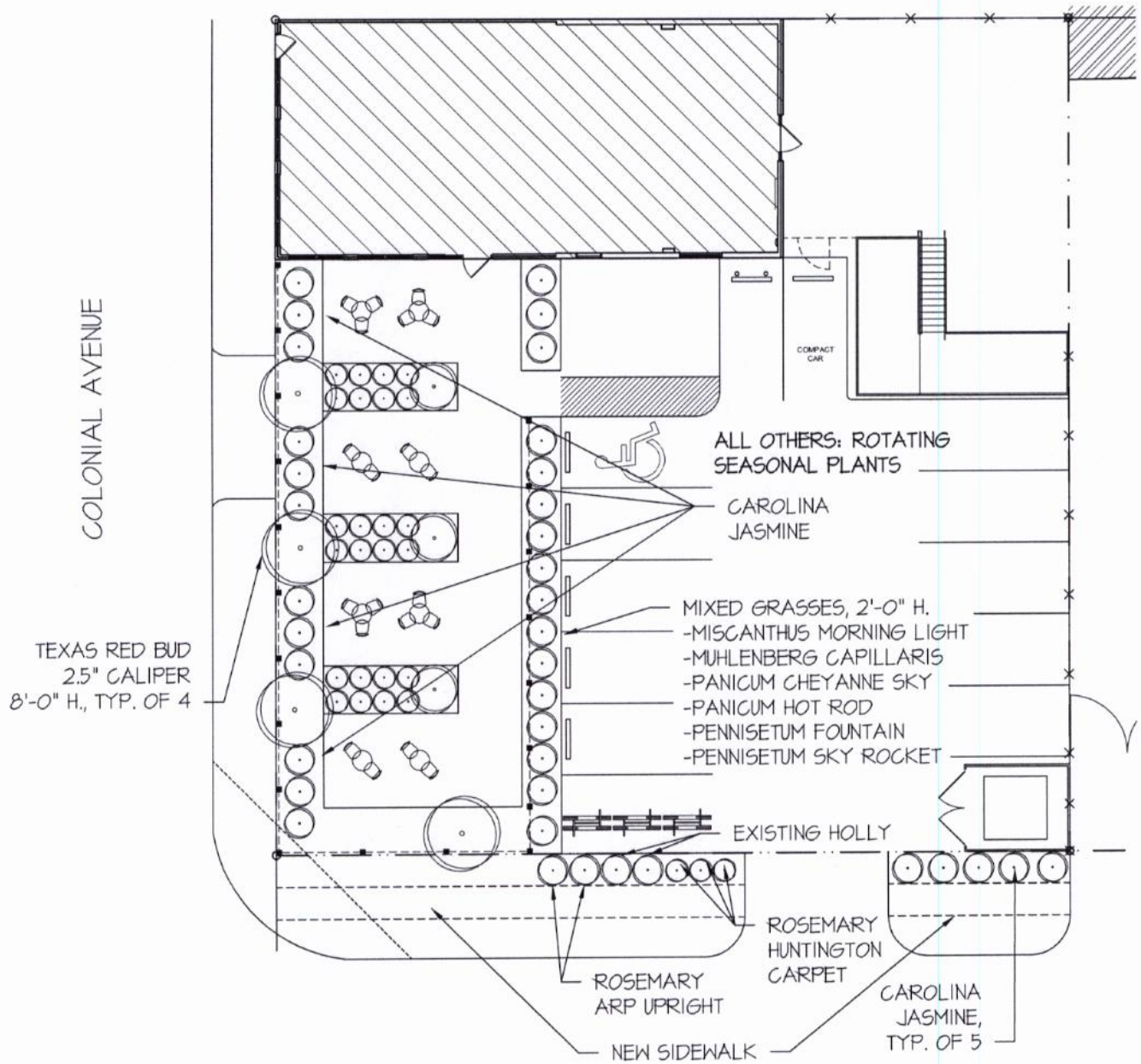


3 TOAST: 2406 COLONIAL AVENUE  
1" = 20'-0"



OCCUPANCY CALCULATIONS	
INDOOR SEATING	40
INDOOR STANDING	16
FRONT PATIO SEATING	20
SIDE PATIO SEATING	20
CONTAINER TOP DINING	20
CONTAINERS INTERIORS	12
SIDE PATIO STANDING	4
BAND	5
STAFF	8
TOTAL	150

# Exhibit C



SITE PLAN

SCALE: 1"= 20'-0"



Location Map



TOAST

W 25TH STREET

W 24TH STREET

COLONIAL AVENUE

0 15 30 60 Feet





# Zoning Map

R-11

IN-1

R-11

W 26TH STREET

C-2

I-1

R-11

I-1

W 25TH STREET

I-2

COLONIAL AVENUE

TOAST

I-2

W 24TH STREET

I-2

C-2

I-2

W 23RD STREET

C-2

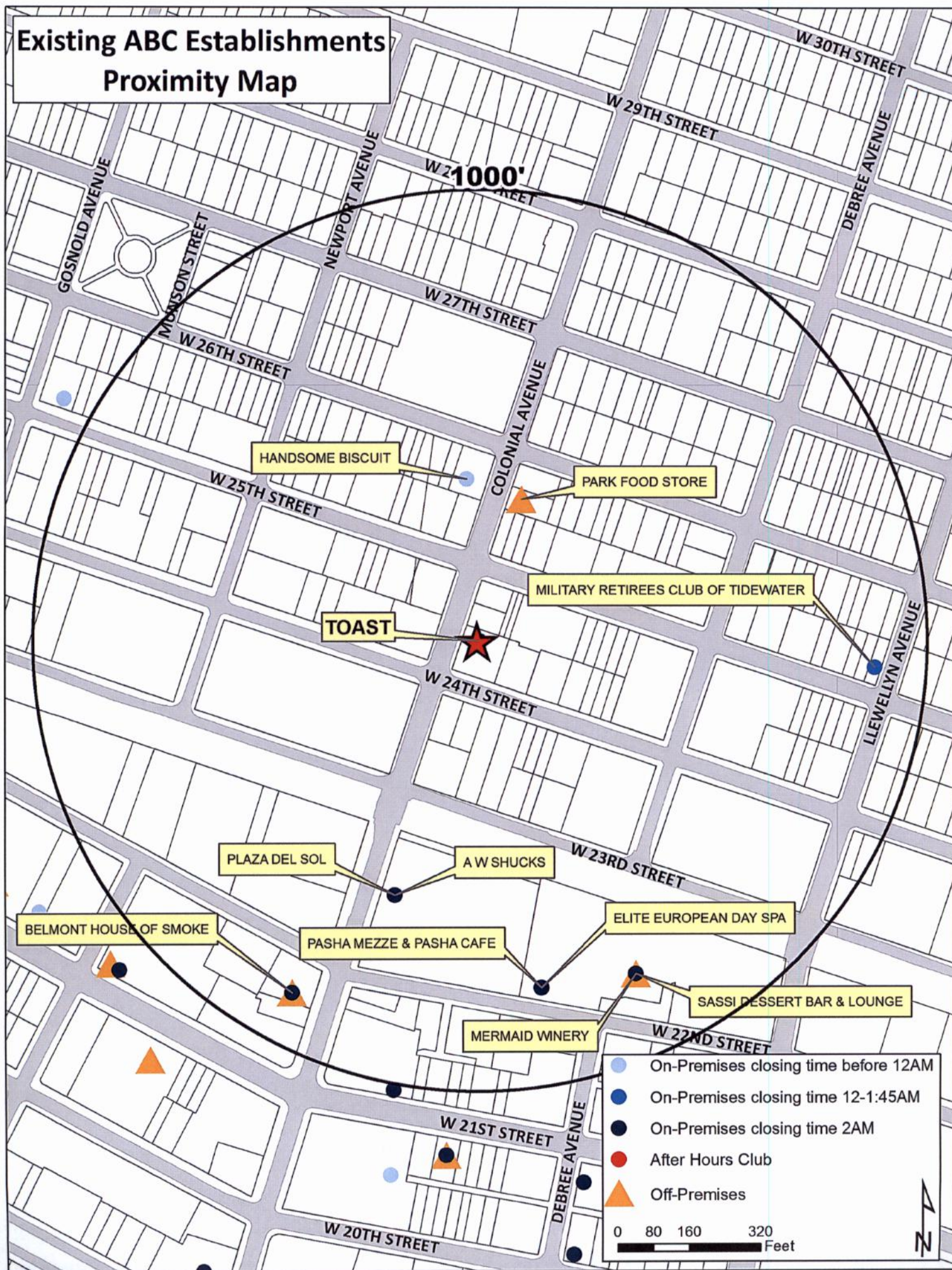
C-2

0 30 60 120 Feet



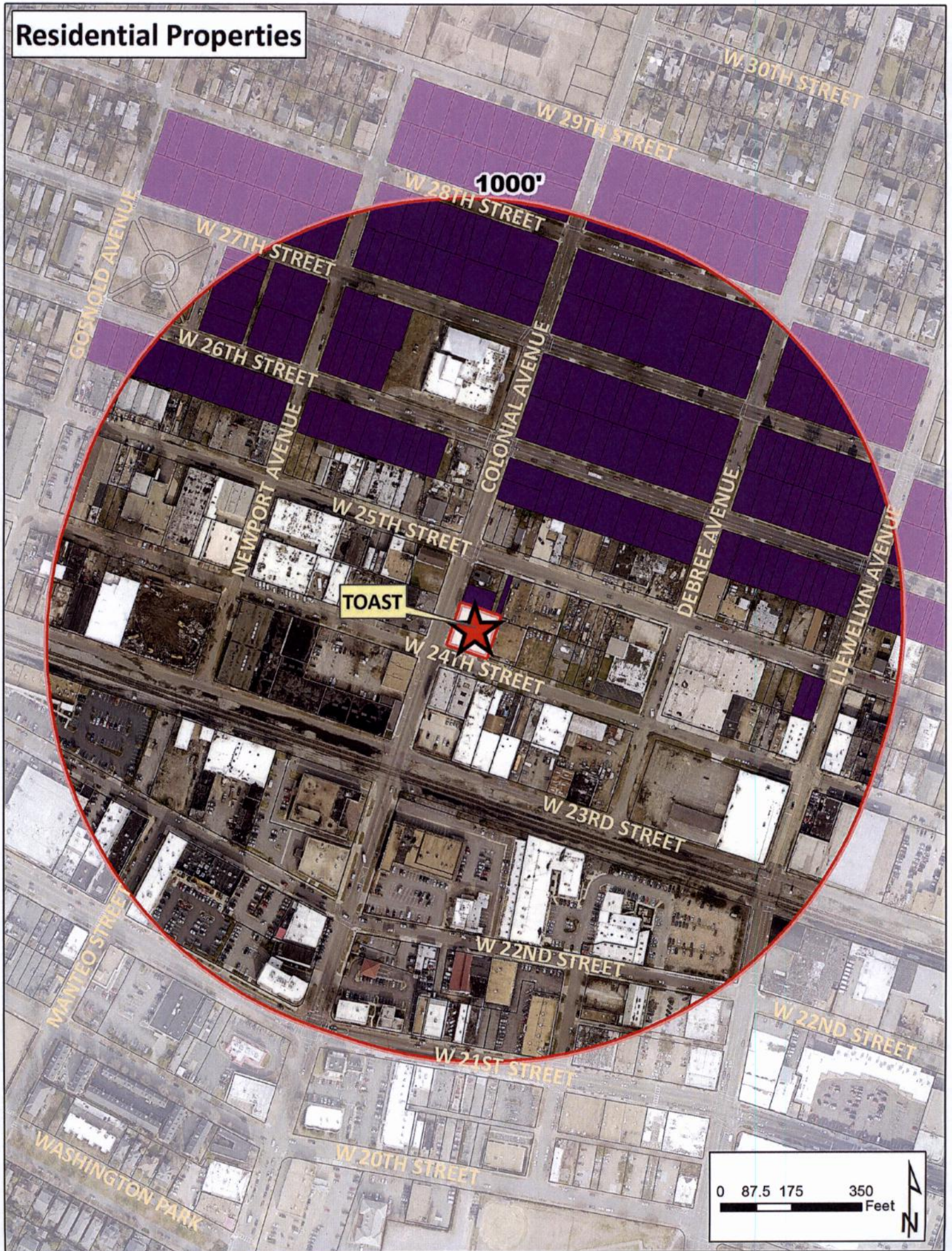


# Existing ABC Establishments Proximity Map





# Residential Properties







**APPLICATION  
ADULT USE SPECIAL EXCEPTION  
ENTERTAINMENT ESTABLISHMENT  
(Please Print)**

Date

**DESCRIPTION OF PROPERTY**

Address

Existing Use of Property

Proposed Use

Current Building Square Footage

Proposed Building Square Footage

Trade Name of Business (If applicable)

**APPLICANT**

(If applicant is a LLC or a Corp./Inc., include name of official representative and/or all partners)

1. Name of applicant: (Last)  (First)  (MI)

Mailing address of applicant (Street/P.O. Box):

(City)  (State)  (Zip Code)

Daytime telephone number of applicant (757)  Fax (☐)

E-mail address of applicant:

**DEPARTMENT OF CITY PLANNING**  
810 Union Street, Room 508  
Norfolk, Virginia 23510  
Telephone (757) 664-4752 Fax (757) 441-1569  
(Revised January, 2015)

**Application**  
**Entertainment Establishment**  
**Page 2**

**AUTHORIZED AGENT (if applicable)**

(If agent is a LLC or a Corp./Inc., include name of official representative and/or all partners)

2. Name of applicant: (Last)  (First)  (MI)

Mailing address of applicant (Street/P.O. Box):

(City)  (State)  (Zip Code)

Daytime telephone number of applicant ()  Fax ()

E-mail address of applicant:

**PROPERTY OWNER**

(If property owner is a LLC or a Corp./Inc., include name of official representative and/or all partners)

3. Name of property owner: (Last)  (First)  (MI)

Mailing address of property owner (Street/P.O. box):

(City)  (State)  (Zip Code)

Daytime telephone number of owner ()  email:

**CIVIC LEAGUE INFORMATION**

Civic League contact:

Date(s) contacted:

Ward/Super Ward information:



REQUIRED ATTACHMENTS

**CERTIFICATION**

I hereby submit this complete application and certify the information contained herein is true and accurate to the best of my knowledge:

Print name: SHAILPOR MAHGERU <sup>TEH</sup> Sign: [Signature] 7/13/15  
(Property Owner or Authorized Agent of Signature) (Date)

Print name: John Porter Sign: [Signature] 7/13/2015  
(Applicant) (Date)

ONLY NEEDED IF APPLICABLE:

Print name: \_\_\_\_\_ Sign: \_\_\_\_\_ / / \_\_\_\_\_  
(Authorized Agent Signature) (Date)

## Simons, Matthew

---

**From:** Straley, Matthew  
**Sent:** Wednesday, July 15, 2015 9:51 AM  
**To:** 'fjkriston@gmail.com'  
**Cc:** Whibley, Terry; Williams, Angelia M.; Wilson, Denise; Simons, Matthew  
**Subject:** new Planning Commission application - 2406 Colonial Avenue  
**Attachments:** Toast.pdf

Mr. Kriston,

Attached please find the application amend a previously granted special exception to operate an entertainment establishment at 2406 Colonial Avenue.

The purpose of the request is to accommodate a proposed expansion towards the rear of the property, adding additional seating and increasing the occupancy.

The item is tentatively scheduled for the August 27, 2015 Planning Commission public hearing.

Should you have any questions, please e-mail or call *Matt Simons* at (757) 664-4750, [matthew.simons@norfolk.gov](mailto:matthew.simons@norfolk.gov)

Thank you.

**Matthew Straley**  
GIS Technician II  
Norfolk Department of City Planning  
810 Union Street, Suite 508 | Norfolk, Virginia 23510  
[Matthew.Straley@norfolk.gov](mailto:Matthew.Straley@norfolk.gov) | Tel: 757-664-4769 | Fax: 757-441-1569



**From:** Frank Kriston [mailto:fjkriston@gmail.com]

**Sent:** Friday, December 04, 2015 2:31 PM

**To:** Simons, Matthew

**Subject:** RE: new Planning Commission application - 428 W 24th Street and 430 W 24th Street, Suite A

Yes, to Toast as well.

On Dec 3, 2015 5:44 PM, "Simons, Matthew" <[Matthew.Simons@norfolk.gov](mailto:Matthew.Simons@norfolk.gov)> wrote:

Frank,

I know I received this email of support several weeks ago... but just to clarify, does the Park Place support mentioned below also include support for John Porter's proposal at the Toast property (2406 Colonial Avenue)?

Or is the Park Place support below only in regards to John Porter's new venture at 428-430 W. 24<sup>th</sup> Street?

Feel free to call me if you have any questions.

Thanks!

Matthew Simons, AICP, CZA, CFM  
City of Norfolk, Department of City Planning  
City Planner II – Land Use Services  
[757-664-4750](tel:757-664-4750)

**From:** Frank Kriston [mailto:fjkriston@gmail.com]

**Sent:** Monday, November 09, 2015 6:56 AM

**To:** Straley, Matthew

**Subject:** Re: new Planning Commission application - 428 W 24th Street and 430 W 24th Street, Suite A

Mr. Straley:

Mr. John Porter presented his plans for 428 W. 24<sup>th</sup> Street and 430 W. 24<sup>th</sup> Street, Suite A to the Civic League on November 2.

The Park Place Civic League would like to express its support for John Porter's proposals, as it is in line with our Visioning and Engagement Plan.

If you require additional information, please do not hesitate to contact me.

Frank Kriston, President  
Park Place Civic League  
[757-354-1669](tel:757-354-1669)